

REMARKS

Reconsideration and allowance of this application are respectfully requested. Claims 1-24 remain in the application and, as amended herein, are submitted for the Examiner's reconsideration.

Claims 1-24 have been amended solely to have the claims better conform to the requirements of U.S. practice. None of these amendments is intended to narrow the scope of any of these claims, and no new matter has been added by these amendments.

In the Office Action, the Examiner rejected Claims 1-2, 8-9, 12-14, 20-21, and 24 under 35 U.S.C. § 103 as being unpatentable over Harada (U.S. Patent No. 6,850,914) in view of Ansell (U.S. Patent No. 6,367,019) and further in view of Deo (U.S. Patent No. 5,721,781); and rejected claims 3-7, 10-11, 15-19, and 22-23 under 35 U.S.C. § 103(a) as being unpatentable over Harada in view of Ansell and Deo and further in view of Dondeti (U.S. Patent No. 6,240,188). Applicant submits that claims are patentably distinguishable over the cited references.

Claim 1, for example, defines a data processing apparatus that includes:

a structure operable to execute the mutual authentication with said virtual memory device when the memory device does not include a structure operable to execute the mutual authentication[.]

The sections of the references that were cited by the Examiner, whether taken alone or in combination, do not disclose or suggest this feature.

The Examiner acknowledges that Harada "does not disclose the use of a virtual memory device to authenticate with the data processing apparatus when the memory device cannot function to execute the mutual authentication." The Examiner then notes that Ansell "discloses that the memory device can be

either functional (Column 12, lines 30-41) or non-functional (Column 6, lines 8-19)" and then asserts that "[i]t would have been obvious of one of ordinary skill in the art at the time of applicant's invention *to incorporate the copy security system of Ansell into the recording system of Harada in order to allow copywritable content of digital storage media to be protected against unauthorized copying, whether the storage media is functional... or non-functional....*" (Emphasis added.)

The cited sections of Ansell, however, describe using cryptographic logic when a smart medium is used in place of an ordinary storage medium and do not disclose or suggest that any form of copy security is used when the storage medium is non-functional. Rather, the cited sections of Ansell merely describe that the non-functional memory device includes a serial number. (See col.6 ll.8-19.) Moreover, even assuming that the serial number of the storage medium is used by the portable player to authenticate the storage medium, *the authentication is not mutual because the storage medium does not authenticate the portable player.* Therefore, if "the copy security system of Ansell" is incorporated into the recording system of Harada, the combined system would not include a structure operable to execute mutual authentication when the memory device is non-functional.

The Examiner further contends that Deo "discloses the use of a virtual memory device to mutually authenticate with the data processing apparatus *when the memory device cannot function to execute the mutual authentication....*". (Emphasis added.) The cited sections of Deo describe authentication between a smart card and a terminal but do not disclose or suggest using the smart card to execute mutual authentication *when another memory device does not include a structure operable to execute the mutual authentication.* Therefore, Deo does not remedy the deficiencies of the cited sections of Harada and Ansell.

Because neither Harada, Ansell nor Deo discloses or suggests executing mutual authentication when a memory device is not capable of executing the mutual authentication, there is no motivation for combining the references. Moreover, even if the cited sections of the references are combined in the manner asserted by the Examiner, the asserted combination would not provide a structure operable to execute mutual authentication with a virtual memory device. Therefore, claim 1 is patentably distinct and unobvious over the cited references.

The Examiner relies on the Dondeti reference as teaching a hierarchical key tree structure, and the cited sections of Dondeti do not remedy the deficiencies of Harada, Ansell and Deo described above.

Independent claims 1, 8, 11-13, 20 and 23-24 each include limitations similar to those described above for claim 1, and therefore each of these claims is patentably distinct and unobvious over the cited references for at least the same reasons.

Claims 2-7 depend from claim 1, claims 9-10 depend from claim 8, claims 14-19 depend from claim 13, and claims 21-22 depend from claim 20. Therefore, each of these claims is distinguishable over the cited art for at least the same reasons as the independent claim from which it depends.

Accordingly, the withdrawal of the rejections under 35 U.S.C. § 103 is respectfully requested.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which the Examiner might have.


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If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

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